

REVIEWS

AMERICAN LABOR. By Herbert Harris. New Haven: Yale University Press, 1939. Pp. 459. \$3.75.

IN THE wake of the revolution in labor relations that has occurred since 1933, and more particularly, since 1935, public interest in the history of the American labor problem has expanded. *American Labor* is designed to meet that broadened public interest. It contains no new material. The data are mobilized to illuminate no original analysis, historical or contemporary. The lawyer will find not even the more familiar stages in the history of labor law treated fully, or consciously related to broader developments. But *American Labor* is a good popular history and one unique in the literature.

The author divides the history of American labor organization into four periods: from the founding of the Federal Society of Journeyman Cordwainers in 1794 to the Civil War; from 1865 to the unequivocal triumph of the American Federation of Labor, after 1886; the rise of the craft unions under the loose leadership of Gompers and Green, to about 1933; the period of expansion and change under the New Deal. Although Mr. Harris is largely concerned with the latter two phases of labor history, some of his most engaging narrative is devoted to the earlier years.

The United States was not committed to industrialism until after the Civil War. Nevertheless, before that time, the eastern cities saw labor struggles strikingly similar, in essentials, to those of the present day; but the position of labor in the whole *ante-bellum* epoch is colored by strands of thought which have since disappeared. It was the classic period of American utopias. Trade unionism as we know it was confused with social and religious idealism, like that of George Evans, or of Robert Dale Owen, who founded a colony at New Harmony, Indiana, or of that queer flock of cults, motivated in part only by economic aims, that began the westward trek that was to end only in Southern California. And yet, in New York and Philadelphia and Boston and Baltimore labor was fighting, by the 'thirties, for the right to organize, for higher wages, for a ten-hour day, for the abolition of imprisonment for debt, for a free school system. Aligned against these proposals were the eternally recognizable forces of conservatism. The panic of 1837 shattered such labor organization as had developed and set back the specific reforms it had sponsored. Discontented labor turned to the land. Horace Greeley urged the young westward.

The story of these decades is summarized by the author with a nice deftness. He manages, by well selected detail, to make vivid the strange milieu in which labor first began to organize. It is not a highly analytic account; but it is full of authentic color.

The next phase properly terminates with the tragedy of the Haymarket riot. Partly as a direct consequence, partly as a result of deeper trends, Terence Powderley's Knights of Labor declined. For although Powderley tried desperately to avoid having the Knights linked with the Chicago anarchists,

depression conditions, a hostile press which had been awaiting some such opportunity, and the realistic appeal of the growing American Federation of Labor were sufficient to cause a catastrophic fall in membership.

Mr. Harris then takes up the bulk of his task, the story of seven major contemporary unions. These sections are distinguished by his profound dislike for "Big Bill" Hutcheson and other A. F. of L. leaders, a rich appreciation of the background from which the I. L. G. W. U. emerged, a detailed acquaintance with the politics of the UMWU, a sympathetic portrait of Debs' conversion from union leader to socialist, an affecting glimpse of the debilitating consequences of the auto worker's routine, an impassioned defense by the author of the newspaperman's right to organize as a worker. In these specific chronicles Mr. Harris' bias is again towards a journalistic human interest. His account, for example, of the situation in the automobile industry is not set up in terms of an analytic survey. It is constructed by means of statements from and interviews with workers. This procedure makes for easy reading, but it leaves many questions unanswered, or answered but vaguely and implicitly. Nevertheless these chapters are examples of an effective compression of fact about diverse unifying themes.

The weaknesses of the author's journalistic virtuosity are not fully apparent until the final chapter: "Conclusion." He surveys there (pp. 351-432) the present state of union organization and of labor legislation. He shrewdly analyzes the AFofL-CIO deadlock in terms of the vested interests of labor executives; but he merely enumerates the various recent acts of social and labor legislation. His appraisal of the operation of the National Labor Relations Act is a simple description of the Labor Board procedure. Factual material on these matters and fruitful speculation as to their long run significance are better to be sought elsewhere.

Most disappointing, however, are Mr. Harris' conclusions as they relate to the present status of the working class movement in general. His lack of incisiveness may be traced to the ambiguity of his whole historical approach. The author is a kind of loose Marxist in the general tradition of Mr. Beard. From internal evidence it would appear that he has been in fairly bitter controversy with those of his friends who hew closer to the party line. He has a somewhat guilty conscience about his interest in labor problems short of proletarian revolution and is comforted to find that he can praise the role of the Communist Party in recent advances in labor organization. While a lack of concern with ultimate objectives aided in the creation of a detailed, personalized history, it makes exceedingly thin his evaluation of the present: for his diluted Marxism is a tool of limited analytic value, whatever its virtues for eclectic narrative. He deals but sketchily with labor's new position in politics and the possible consequences for labor policy of a general shift from the perspective of the craft to that of the industrial union leader. His conclusions lack, moreover, an awareness of the relation of labor union problems to broader issues in the economic system—a lack of awareness shared by many union executives. There is virtually no discussion, for example, of wage policy; nor is there any account, even in the historical sections, of the manner in which real wages have fluctuated and how those fluctuations were related to the urge to organize unions and the propensity of labor to look to political action for redress or social progress.

Although the reader will, on the whole, be grateful for Mr. Harris' readable style, he may wish that the author had not worked quite so hard at it, and that the magazine *Time* was having a less pervasive influence on American prose.

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COMPLAINT AND REFORM IN ENGLAND, 1436-1714. FIFTY WRITINGS OF THE TIMES. Arranged with Introductions by William Huse Dunham, Jr.,* and Stanley M. Pargellis.‡ New York: Oxford University Press, 1938. Pp. xxxv, 925.

OPINION is the stuff of which usage is fashioned. Whether one's interest is in the arts or letters, in industry or politics, in the law or the Constitution, he must be grateful to Mr. Dunham and Mr. Pargellis for this collection of teasing reprints. They have garnered from an inaccessible store "fifty writings" of the everyday England of the Tudors and the Stuarts. The selections, far too readable to be called documents, consist of tracts, speeches in Parliament, sermons, fragments of learned lore, admonitions galore, discourses orthodox and heretical, blasts reverent and scandalous. No order, save chronology, shapes the march; aspect after aspect of a national life, heavy with tradition and pregnant with things-to-be, moves briskly along. There pass in review advice to the ancient craft of beggars—an ironic portrait of a puritan—speeches of Elizabeth from her throne brimful of concern for her people—a treatise exuberant with the spirit of Colonial adventure—a scurrilous attack upon the Virgin Queen—a lamentation over the decay of Merrie England—a charge to the grand jury at quarter-session, in which the law of the land is brought into accord with the most rigorous Tory principles. It is, all in all, a recreation of the cries of many men, of divers sorts, amid divergent circumstances, stimulated, puzzled, stunned, provoked, lifted to the mountain top or led into the slough of despair by the course of events.

An art lies in the formless volume. The very higgeldy-piggeldy character of the arrangement keeps monotony away. Surprise comes with every change of subject, and the pageant presents a drama which no scholarly roundup into a topical format could ever afford. The editors have carefully chosen their cast; but they are content to allow every performer to recite his lines in his own unstudied way. Nor are separate voices blurred into a medley of "general significance." A tutor, devoted to the new humanism, urges a youth to read Epictetus to confirm him the faster in right opinions—and "I would you meddled not greatly with any other books than I shall name."¹

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1. *An Exhortation to Young Men*. By Thomas Lupset (1529). DUNHAM AND PARGELLIS, Pp. 101-124.

. . . "As for gentlemen, they be made good cheap in England"; for "who-soever studieth the laws of the realm," or "professes liberal sciences," or "can live idly and without manual labor, or will bear the port, charge, or countenance of a gentleman, he shall be called master."² . . . A boon to the herring industry will set countless men to work, relieve many a poor man and save many a tall fellow from the gallows, and "root out of the dominion that loathsome monster idleness."³ . . . The course of trade is blocked with iniquitous taxes, for those who have the power lay "all upon the poor merchants' necks."⁴ . . . Among doctors "divers are more indebted to opinion than to learning," for medicine has grown to be a trade, where "fortune prevails more than skill."⁵ . . . In proverbs, which receive almost a geometrical demonstration, it is shown that "the more sheep, the dearer the wool"—or mutton, beef, corn, or eggs.⁶ . . . As for the church, let the reformation be a reformation; have done with "patch and piece and going backward;" we must "altogether remove the whole Antichrist," and "perfectly plant the purity of the work, simplicity of the sacraments, severity of discipline. . . ."⁷

Theology has now lost its edge; the enclosures endure largely in the severities of the law of real property; colonies have long since ceased to be an escape for the turbulence of the insular kingdom; the new humanism, the port of a gentleman, the relief of the unemployed, the man of business weighted down beneath the yoke of taxation—these seem enduring.

The unity of the book is inherent. It derives from the common stage, the common background, the common atmosphere which the characters breathe. In a miscellany of parts it is an England becoming modern which speaks. To take a single one of many strands, the movement of thought towards its contemporary bearings is everywhere in evidence. The art of chirurgery is drifting from priestcraft, dialectic and correct spelling towards a surgery grounded in physiology and anatomy.⁸ Architecture has come to display "a kind of good fellowship" between kindred disciplines. To reveal "truest perfection it must be reduced to natural principle." It behooves the builder to have regard to "the designment and idea of the whole work and to make the form triumph over the matter." For "every man's proper house is an epitome of the whole world;" hence "the place of every part is to be deter-

2. *De Republica Anglorum*. By Sir Thomas Smith (1565). Pp. 195-239.

3. *A Politic Plot: For the honor of the prince, the great profit of the public state, relief of the poor, preservation of the rich, reformation of rogues and idle persons, and the wealth of thousands that know not how to live*. By Robert Hitchcock (1580). Pp. 276-292.

4. *A Particular Discourse Concerning . . . the Western Discoveries*. By Richard Hakluyt (1584). Pp. 293-339.

5. *Tom of All Trades: or the Plain Pathway to Preferment*. By Thomas Powell (1631). Pp. 550-580.

6. *Certain Causes Gathered Together Wherein is Showed the Decay of England*. Anonymous (1550). Pp. 135-140.

7. *An Admonition to the Parliament*. By a Puritan (1572). Pp. 232-257.

8. *A Discourse of the Whole Art of Chirurgery*. By Peter Lowe (1597). Pp. 404-422.

mined by its use."⁹ In short, architects "should be as circumspect as wooers in fitting their structures to their surroundings."¹⁰ The story of the Royal Society reveals an event that epitomizes the transition from an era of faith to the age of reason. A small group of men, a little fed up on the dry bones of theology, desiring "the satisfaction of breathing a freer air" and finding that "nature alone could pleasantly entertain them," determined to bring objective inquiry "from the retreats." A charter from Charles the Second blessed the venture; His Royal Highness became "Defender of the Faith and Patron of Experimental Knowledge;" and what might have remained a freakish enterprise put on respectability.¹¹

In a book of "the times" the act of the state is never far away. As change comes, the laws are revised the better to serve the kingdom. The "law" prescribes diet and apparel for servants and ploughmen, yeomen and tradesmen, esquires and gentlemen, knights-bachelors and their wives, the clergy and others "according to their several ranks."¹² Acts hurled against conjurations, enchantments, and witchcraft represent a legal invocation not yet clearly on the way out.¹³ A series of statutes of the realm requiring beggars to repair to the towns, instituting punishments for "scholars, sailors, fortune tellers" and such like, appointing places in the social order for "rogues, vagabonds and sturdy beggars," and instructing the clergy to exhort people to alms, reveals public policy at grips with the early rumblings of upheaval which created the landless man.¹⁴ The range of statutes presents a distinctive world of mind and of offense. Grand jurors are to present, according to their several degrees of wrong, all priests and Jesuits, all negligent of hues and cries, all profane swearers and cursers, all forestallers, regrators, and engrossers.¹⁵

Here and there in minute fragments is a picture of the un-bookish law in operation. A routine is set down for "the breeding of students at the common law." A touch of the universal appears in "the lawyer is a mercenary fellow." We catch glimpses of "the action on the case," the "thunderclap of dissolving an injunction," the "doomsday of a decree." In a tongue of the people, which pierces through ceremonial to stark reality, we learn of

9. It has been remarked that the Yale Law School, the leading exponent of "the functional approach", is housed in a splendid edifice which makes the minimum concession to the idea of function. One who voices such a criticism will regard the building as hardly abreast this early seventeenth century treatise upon the art of architecture. It need hardly be noted that such severe judgments upon the Sterling Law Building come from persons alien to the Yale Community.

10. *The Elements of Architecture*. By Henry Wotton, Kt. (1624). Pp. 509-549.

11. *The History of the Royal Society of London*. By Thomas Sprat (1657). Pp. 733-772.

12. 37 EDWARD III, cc. 8-15 (1363); 38 EDWARD III, c. 2 (1364); 3 EDWARD IV, c. 5 (1463); 22 EDWARD IV, c. 1 (1483); 24 HENRY VIII, c. 13 (1533). Pp. 31-50.

13. 5 ELIZABETH, c. 16 (1563).

14. 22 HENRY VIII, c. 12 (1531); 27 HENRY VIII, c. 25 (1536); 5 ELIZABETH, c. 3 (1563); 14 ELIZABETH, c. 5 (1572); 18 ELIZABETH, c. 3 (1576); 39 ELIZABETH, c. 3-5 (1598). Pp. 423-455.

15. *The Charge Given at the Quarter Sessions of the Peace for the County of Middlesex*. By Sir William Smith, Bt. (1682). Pp. 803-822.

"land of virgin reputation undishonored by a single fornication with country creditors," not yet "defiled by prostituting to the adulterous embracings of the city scriviner," pristine in its good name.¹⁶ And as England moves from monarchy towards the oligarchy we know, we hear faintly at first, then more distinctly, phrases which today are commonplace. Estates, liberties, lives—the common laws of equity and nature—equal principles of common right—a written constitution to be enforced by the courts.¹⁷ A plea for liberty, especially for freedom of speech, has to fight its way against an action for slander. An aggressive Puritan, impatient for "the new discipline," insists that "the king ought to be under the law."¹⁸ English liberties, the bill of rights, the order of nature, constitutional government usurps the stage and takes over the action.

The collection is of its own kind. Each selection is too concretely set in the ways of its age to become an abstraction. Far more strands of an emergent culture are in evidence than a host of inquisitors can follow; nor are there materials here for a genetic account of any single institution or doctrine. But reform is not of the sixteenth and seventeenth centuries alone; nor is complaint a habit only of the English. In these pages we find divers sorts of men responding to changes of fortune and in the times. A salute to adventure, a warning to apply the brakes, a despair over the disappearance of ancient landmarks, a stubborn refusal to admit the fact of change pass in review. So it was in the yesterday of those reprints; so it is in the propaganda of today.

A journey into the past such as this needs no excuse. If modestly the editors have kept in the background, their service towards understanding is none the less creative. One of the elect scribbles, "I have given you but essays, and struck little sparks of fire before you, my intention is but to provoke the wit and ability of others; I have drawn you a map wherein you cannot see things clearly and distinctly, only I introduce matter before you, and now I have done when I have showed you the way to enlarge and bring every particular thing into debate."¹⁹ So say the editors, so echoes this goodly company. The words should be flung on the fly-leaf of the book. They are the proper warranty with which to cry up such wares.

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16. *Tom of All Trades*. By Thomas Powell (1631). Pp. 550-580.

17. *The Leveller: Or the Principles and maxims concerning government and religion which are asserted by those that are commonly called Levellers*. (1659). Pp. 679-691.

18. *A Speech in the House of Commons*. By Peter Wentworth (1576). Pp. 258-275.

19. *Sir Thomas Roe His Speech in Parliament* (1641). Pp. 599-607.

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CASES ON EQUITABLE REMEDIES. By Zechariah Chafee, Jr. Cambridge: Published by the Editor, 1938. Pp. xxx, 480. A chapter added in 1939. Pp. v, 227.

THE comprehensive short title of this case book is somewhat misleading. With Mr. Simpson, Professor Chaffee edited an earlier case book on *Equity Jurisdiction and Specific Performance*. With Dean Pound he edited another case book on *Equitable Relief Against Torts*. The present book is the third and last of a series, and is intended to take the place of the second volume of Ames' *Cases on Equity*, now out of print. The remedies dealt with are interpleader, bills of peace, bills quia timet for the cancellation and surrender of contracts, removal of cloud on title, declaratory judgments, and reformation and rescission for mistake. Time and pressure of work have prevented a final chapter on reformation and rescission for fraud. The hope is expressed that in the future the three case books may be consolidated into one, in which event the comprehensive title would be most appropriate.

Professor Chafee's preface calls attention to the process of pedagogical disintegration of the old standard courses on equity, teachers of torts claiming one part, of contracts another, of trade regulation still another. He says "along another frontier are heard the war-cries of Procedure, threatening to absorb whatever the other invaders do not think worth seizing." He does the teachers of procedure an injustice in intimating they are content to take leaveings. They are a much harder lot. The future plan to deal with all equitable remedies in one volume indicates the editor proposes to combat the disintegrating pedagogical process, including the feeble claims of procedure. But his method is unique. The present case book is distinctly procedural in tone, containing excellent material for bringing out the distinctions between equity suits and law actions as a preparation for a study of the one form of civil action. In fact the title, though somewhat comprehensive for a study of a part only of the remedies in equity, becomes appropriate to the limited material in the present book because of the prominence in this material of the general characteristics of all the equitable remedies, procedural as well as substantive. The title suggests an emphasis too infrequently given in courses on equity, and teachers of procedure will welcome the emphasis actually given. A course founded upon this material is one which a law curriculum can hardly afford to omit. It matters little whether it is classified as substantive law or procedure. It will be more popular with faculties if it wears the substantive law disguise.

The remedies treated are developed in scholarly fashion. The editor is no slave to the traditional development of doctrine through case material alone. Progressive treatment is facilitated by a liberal amount of textual material. Principal cases are used to show major developments. Analogies and refinements are brought out in a series of problem cases, with citations to original sources. Excellent skill is displayed in balancing the processes of equipping a student with a fund of information and of building up his powers of legal reasoning. Curiosity is stimulated. The student who prepares upon this material should come to class with a mind full of questions, and be ready at once to enter into a directed discussion. The value of statutory material has been recognized, and texts of numerous statutes are placed be-

fore the eyes of the student. Problem cases supplement textual material in making transitions from one division of a subject to another. After a student has finished his course, his case book will continue to be a most valuable reference work with which he cannot afford to part. Teacher and lawyer will find in it suggestions of relations and connections which might otherwise escape them. Principal cases, extracts from others, problem cases, text material and statutes, all contribute to show a sound and skilled pedagogy. So far as it is possible to do so, Professor Chafee is passing on to other teachers the means of capitalizing upon his ripe experience.

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WHEN THERE IS NO PEACE. By Hamilton Fish Armstrong. New York: Macmillan Company, 1939. Pp. 236.

MR. ARMSTRONG, the editor of *Foreign Affairs*, provides in this book a readable, chronological narrative of the Czech crisis from February, 1938, down through to the occupation early in October of that year. When set down dispassionately, in retrospect, with their full complexity and sequence at last apparent, the details make up a more comprehensible picture than was available at the time. Yet, unfortunately, the crisis still remains in that uncomfortable limbo of recent history. Except for a few important documents, Mr. Armstrong is unable to furnish anything more than an intelligent, considered fusion of contemporary news reports oriented against a slight historical background. Events have moved so quickly since last October that the earlier crisis seems but a transitory, half-way stage in a development that is still going on. Its relative importance remains yet to be evaluated.

After a rather superficial survey of the general European background, Mr. Armstrong quite rightly begins his study with an analysis of Chamberlain's temporizing tactics. He contends that this policy, which began with the fall of Eden, conditioned the whole crisis. In the chapter which follows, he shows that the *New York Herald-Tribune* despatch of May fifteenth, which purported to reflect "the real British attitude," was more than a mere straw in the wind. That interview, which may well have represented the ideas of the Prime Minister himself, forecasts the famous *Times* editorial of September seventh and the eventual policy which England forced on the Czechs.

From then on the book moves rapidly through the events of the summer, the growing intransigence of the Henlein party, the Rumanian mission, the Nuremberg Congress, and the final hectic period when the problem became a major European affair. The actual text is followed by a very useful chronological outline of events from February to October, 1938. One significant document, which received all too little attention at the time, since it was quite understandably omitted from the British White Paper, is printed in an appendix: the French text of the Czechoslovak reply of September

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twentieth, 1938, to the Anglo-French Plan of the day before. This calm but pathetic document points out the unconstitutional nature of the proposed changes from an internal point of view and prophetically suggests the ultimate folly of such a surrender in the face of German threats.

Mr. Armstrong arrives at no conclusion that could not have been found in the newspapers of the time. As the story is seen as a whole, one becomes even more impressed with the delicate sense of timing that seems to have lain behind the German game of bluff. This is especially noticeable after the May crisis, in which the Germans, apparently put back on the defensive, rallied quickly at the sight of British hesitation and seized the initiative once more. In the long run, German diplomatic methods may well prove as inept and clumsy as they are traditionally made out to be; but within the limits of a particular crisis they appear marvelously skillful. With the final judgment of the book: peace, but at what price—no one today could find any disagreement.

Again, the value of such a book must be questioned. In a sense it is but a perpetuation of that combination of rumor, guess, and fact that go to make up the modern newspaper story. No new facts are available and time has yet to give a true perspective of the period's real importance. No doubt is cast on Mr. Armstrong's extensive knowledge of contemporary leaders and events, but so many of the details in his picture must still rest on surmise rather than fact, that the whole story is still a long way from being complete.

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AN AFRICAN SURVEY: A STUDY OF PROBLEMS ARISING IN AFRICA SOUTH OF THE SAHARA. By Lord Hailey, G.C.S.I., G.C.I.E. London: Oxford University Press, 1938. Pp., xviii, 1837. \$7.00.

THIS gigantic study is a coöperative undertaking of a committee working with the Royal Institute of International Affairs. Its origin was a suggestion in 1929 of General Smuts that a survey was needed "of what was taking place in Africa as a whole." That "Africa was developing under the control of a number of European powers" and that "different and often conflicting principles were being applied in the administrative, social, educational, and legal fields" disturbed him. It was his desire to have the proposed survey "include a review of the extent to which modern knowledge was being applied to African problems."

All of Africa, however, is not covered by this volume, which was five years in the making. Only that part south of the Sahara is studied. One might well wonder what kind of comprehensive study could be made of the entire Continent with its 700 languages, with its population of approximately 150,000,000, with its varying topography, races, religions, foreign control,

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with its scattered villages and large cities. By confining themselves to Africa south of the Sahara, the authors deal with the Africa men ordinarily think of. They discuss geography, people, languages, government, courts, non-European immigrants, native administration, taxation, labor, land, agriculture, forests, water supply, erosion, health, education, economic development, coöperative enterprises among the natives, mining, transportation, communication, even the cinema and the radio. The consequence is a comparative study of the policies pursued by England, France, Belgium and Portugal toward the vast complex of problems arising from their separate national efforts to maintain colonial empires. A good index enables the student to get information quickly on specific subjects.

For one person to pass judgment on the mass of material like that gathered here is impossible; it is like an attempt to review an encyclopedia. The volume limits itself chiefly to a comparative study of present-day policies in Africa; no offer is made to evaluate imperialism or to give it historical treatment. The fact of imperialism is taken for granted. Very little is said about the European groups engaged in the exploitation of Africa. Several inexplicable omissions are worth noting, such as policies in regard to slavery, the sale of liquor to natives, the functions and powers of native police and soldiers, the attitude toward Christian missions.

The book leaves one with the impression that Africa produces nothing but problems. Here are the liabilities of imperialism; one wonders what the assets can be. Obviously, Africa costs European countries a good deal, although there is here no consideration of colonial budgets to enable one to arrive at conclusions about those costs. Capital for the exploitation of Africa's wealth must still come from the outside; "the annual investment in Africa has, indeed, been greater during the last decade than during almost any other period." (p. 1355). Despite this investment we are told that Africa's share in world production remains comparatively small. In 1929, before the depression made everything worse, the whole African continent contributed only 4.5 per cent of the world's export trade and 4.8 per cent of the world's import trade. (p. 1325). Japanese competition is growing rapidly, so much so that there is an increasing demand for the abrogation of the treaties providing for complete commercial equality in the Congo Basin. European states are arguing "that the countries which have spent their money in developing African territories should be permitted to enjoy some measure of preference in its trade, or at least that some revision of the boundaries of the zone should be permitted, so that it should be to a greater degree continuous with present political units." (pp. 1342, 1343).

It is impossible to read this volume without coming to regard Africa as the scene of the greatest revolutionary change that has occurred in human history. Where else have people rushed from barbarism into civilization within less than fifty years? The changes have been tremendous; from talking drums to telephone and wireless; from transportation by man-back to railway, automobile, and airplane. Native crafts have been swept away in a flood of Europe's cheap cloth and tinware. Alien governments have been imposed with institutions and ideas foreign to those already in existence. Europe's industrial system with its peculiar mores has been forced upon

the simple subsistence economy of the Africans. Teachers, doctors, soldiers, missionaries, administrators and a whole army of exploiters have come in. All parts of the "Dark Continent" have been explored except the mind of the natives, and it is apparent that the common denominator of the majority of Africa's problems is the white man's abysmal ignorance of native psychology.

What has been the effect of these revolutionary changes on the native? "The native economy of Africa is almost everywhere in a state of change." (p. 1431). "The contacts between primitive native economies and Western capitalism are . . . essentially catastrophic." (p. 1414). No wonder that "some inquiry . . . has been made into the question whether any change in the incidence of mental disorder among Africans can be traced to the impact of European civilization." (p. 1151).

A consideration of the changes that have taken place in the last fifty years leads to speculation about the coming fifty years. One has reason to wonder about Africa's economic future. "It was the fashion half a century ago to regard the resources of Africa as 'unlimited.' Now it is realized that not only are they limited, but that the limits are lower than was at first supposed." (pp. 1108, 1109). It is becoming more and more apparent that a very delicate balance in nature has been upset by the introduction of the European plough, by the application of scientific knowledge that increases the number of people and cattle to a point where the land suffers from the burden. What is happening to the forests is appalling. ". . . the destruction of woodland for fuel is common in the vicinity of towns as well as mines; thus at Broken Hill every tree within an area of thirty square miles has been destroyed." (p. 994). In one part of West Africa "the area of high forest remaining today is less than 14,000 square miles; it is estimated that about 290 square miles are destroyed yearly, and that if the present rate of destruction is maintained, little will survive in fifty years' time. (p. 1002).

The book also leads to questions about the political future of Africa. Natives are rapidly becoming educated; they have already started the publication of papers and magazines and have for some time manifested signs of political consciousness. The British Government, to a degree that goes far beyond that observed by other European states, is greatly concerned about increasing native representation in bodies that determine the destinies of African colonies. If this point has been reached in fifty years, where will the British find themselves in this respect fifty years hence? We are all accustomed to the hackneyed statement that "the sun never sets on the British Empire." The student of imperialism knows that the statement has a meaning different from the one usually intended; namely, that the administration of empire is a task requiring attention twenty-four hours a day.

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LEGAL HISTORY OF CONSERVATION OF OIL AND GAS. A symposium. Published by the Section of Mineral Law of the American Bar Association. 1938. Pp. vii, 302. \$2.50.

THIS modest volume comprises a symposium of eleven separate papers, each forming one chapter, which chronicle the legal—and, in some instances, administrative—history of the conservation of petroleum and natural gas production in a principal producing, or potentially productive state. Arkansas, California, Kansas, Louisiana, Michigan, Mississippi, New Mexico, Oklahoma, and Texas are represented. An illuminating introductory chapter by Professor Walter L. Summers, succinctly reviews the general development of conservation laws and practices, and provides a background for considering the individual states' experiences as narrated in the succeeding chapters of the book.

The book is unique as regards its plan of authorship. It is a modern and current history written by prominent participants in the struggles—legal, administrative, and political—which have accompanied most attempts at enforced regulation and conservation of oil and gas production and distribution. The narrative of each state's experience has been prepared by an active oil and gas attorney in that state, working in collaboration with an advisory committee of other attorneys also experienced in the field. In every instance, the professional standing of the authors has been such as would assure a high degree of care and competency. A reader will be impressed with the fair and objective manner in which the controversial aspects of the different experiences are recounted. It is a history written by a number of its creators.

As regards substantive content, the volume constitutes a store of invaluable factual information relating to the conservation experiences of the states represented. A considerable portion of this contemporary information is nowhere else readily available—much of it otherwise could be obtained only by extensive research. The chapters on the Oklahoma and Texas experiences are particularly complete and graphically portray the problems that must be solved in achieving anything approaching adequate and equitable regulation. The chapter on Louisiana might appropriately have included some additional material relative to operations in the southern portion of that state. In several instances, a reader may detect a note of local patriotism that may somewhat have colored the picture a rosier hue. The comprehensive New Mexico conservation statute of 1935, which has served as the principal model for similar statutes in several other states, is set forth in full in the Appendix.

Much progress has been recorded in the struggle for conservation of these vital and irreplaceable natural resources, but the battle is by no means over. The section on Mineral Law has rendered a distinct service in effecting the compilation and distribution of this interesting account of accomplishments to date. A careful perusal of the contents of this book should prove enlightening to most attorneys, operators, administrators and legislators concerned with increased orderly development of the nation's second largest industry.

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DORR PAMPHLET No. 1. STATE HOUSE v. PENT HOUSE. By Zechariah Chafee, Jr. Providence: The Book Shop, 1937. Pp. 165. \$.50.

DORR PAMPHLET No. 2. THE CONSTITUTIONAL CONVENTION THAT NEVER MET. FIRST PART, 1935. By Zechariah Chafee, Jr. Providence: The Book Shop, 1938. Pp. 88. \$.50.

DORR PAMPHLET No. 3. THE CONSTITUTIONAL CONVENTION THAT NEVER MET. SECOND PART, 1936. By Zechariah Chafee, Jr. Providence: The Book Shop, 1939. Pp. 50. \$.50.

THE STORY of the famous Narragansett race track row of 1937 is taken as a point of departure for a series of essays on the principal legal problems growing out of it:

Was Mr. O'Hara guilty of a criminal libel on Governor Quinn?

Were the two orders of the racing board, removing Mr. O'Hara as manager and suspending the race track's license, properly quashed by the Rhode Island Supreme Court?

Was the governor's proclamation of martial law valid?

If it was invalid, what are the remedies of the Narragansett Racing Association, which owns and operates the track?

The essays are dignified, lucid, and scholarly; marked throughout by a fine quality of objectivity and restraint often lacking in the comments of historians and rarely found in a treatment of contemporary controversies. Not that Mr. Chafee fails to come to any conclusions—on the contrary he takes stands quite definitely arguing persuasively for each position.

I have never before seen serious legal writing—and this deserves to be so classed—which did not sacrifice some or all of the underlying human interest. The classic struggle between O'Hara, president and managing director of the Narragansett Racing Association, and Governor Quinn of Rhode Island, is colorful, dramatic, full of humorous incident. In *Dorr Pamphlet No. 1*, Mr. Chafee has made use of six well chosen photographs, a map of "The Territory in a State of Insurrection," and two cuts representing the front page of the famous edition of O'Hara's *Star-Tribune* which brought forth a criminal libel prosecution. In the front of the book is a full table of relevant Rhode Island dates, and in the back ten appendices setting forth statutes, court opinions, newspaper editorials, observations on gambling, and the like. Through the whole thing runs the author's light touch and a humor, entirely free from flippancy, adorned with a rare richness of anecdote and allusion. Thus, the footnotes on a single page give the origin of the phrase "a Philadelphia lawyer," an incident showing Wilkes' popularity in colonial America, and a shrewd guess as to the authorship of the diatribes of Junius against the ministers of George III (p.24). The quotations are priceless. Yet all this is subordinate to the story, engagingly told, and the morals, pointed with no less clarity because of their pleasant setting.

There ought to be much more of this sort of thing in our legal literature. After all, the law touches life at so many points and the contact so often opens for a moment a door giving upon strange and wonderful vistas of human

experience. These pamphlets might have been made the subject of typical law review comments on criminal libel, safeguards in administrative procedure, martial law, the status of constitutional conventions in the absence of specific provision for them, methods of selecting delegates to constitutional conventions, and so forth. I am glad Mr. Chafee chose another vehicle of expression this time.

Dorr Pamphlet No. 2 consists of a series of letters written by the author and published in the *Providence Evening Bulletin* early in 1935 when the legislature had before it a proposal to hold a constitutional convention. Rhode Island has had a long and stormy constitutional history, but only two constitutions, the charter granted by King Charles II and the constitution adopted in 1842. Since the Revolution, the issue of a constitutional convention has been before the voters in one form or another thirteen times. The struggle is perennial. For some years now it has centered about the apportionment of one senator to every city and town (except that Providence has had four since 1928) regardless of size or population. This method of representation worked heavily against the Democrats; but the handicap was finally overcome for a time by events culminating in the *coup d'état* of January 1, 1935, when the Democratic party was placed in virtual control of all three branches of the government.

The convention bill failed of adoption in 1935, but in 1936 the legislature passed an act calling for a popular vote on the question of holding a convention, and at the same time on a slate of delegates. *Dorr Pamphlet No. 3* contains articles written by Mr. Chafee in the *Providence Evening Bulletin* between the passage of the Convention Act and the date set for the popular vote on the issue. The people rejected the convention, so the immediate occasion for the articles had passed when they were reprinted in 1938 and 1939. But they have a permanent value which fully warrants their publication as the *Dorr Pamphlets*. In the first place there is here a thorough and scholarly appraisal of the many problems encountered in drafting a statute calling for a constitutional convention and in determining how delegates are to be selected. This has universal application. There is also a good short account of the constitutional history of Rhode Island with a more extended treatment of the present—and unsolved—issues which the people of that state, and other states, must some day face.

The *Dorr Pamphlets* present a very fine type of political writing. Cynics, I suppose, may question their persuasiveness in the arena in which political facts are actually established. I like to think that such people underestimate the long-run effectiveness of a disinterested point of view well expressed. Perhaps there is some evidence for my belief in the fact that Rhode Island, in her Administrative Act of 1939,¹ has revamped the old Horse Racing Division along the lines suggested in *Dorr Pamphlet No. 1*.

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1. Administrative Act of 1939, §§ 126, 127.

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